

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Daniel A. Stock,

Complainant,

vs.

Southern California Edison Company,

Defendant.

Case 02-07-038
(Filed July 11, 2002)

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

Summary

Pursuant to Rules 6(b)(3) and 6.3 of the Commission's Rules of Practice and Procedure,¹ this ruling sets forth the schedule, assigns a presiding hearing officer, and addresses the scope of the proceeding, following a prehearing conference (PHC) held on October 8, 2002.

Background

Complainant Daniel A. Stock (Stock) alleges that defendant Southern California Edison (Edison) has improperly calculated charges for over-baseline usage in bills for electric service when both winter and summer season baseline

¹ Unless otherwise indicated, all subsequent citations to rules refer to the Rules of Practice and Procedure, which are codified at Chapter 1, Division 1 of Title 20 of the California Code of Regulations, and citations to sections refer to the Public Utilities Code.

allocations and rates appear on the same month's bill. Stock contends that the calculations in several of his bills unnecessarily increase the amount of over-baseline usage by separately prorating winter and summer usage.

Edison responds that its billing complies with the rules and tariffs approved by the Commission, in particular with its Rule 9 covering pro rata computation. Edison also asserts that Stock's complaint is a challenge to the reasonableness of a rate, which cannot be made by individual complaint. (*See* Section 1702.)

Scope of the Proceeding

The only question in this proceeding is whether Edison's method of calculating bills in the particular circumstance identified by Stock is contrary to any Commission rule or order. This appears to be a purely legal question, which will be tested by a motion to dismiss filed on the schedule set out below. In the event that the motion to dismiss does not resolve this proceeding, the parties agree that it is likely that disputed issues of fact about the calculation of bills will remain to be decided in an Evidentiary Hearing (EH).

Discovery

The parties agree that only voluntary provision of information will be required in this case. At the PHC, Stock and Edison agreed that Edison would provide a response to Stock's request for documents made at the PHC on the schedule below. Should any discovery disputes arise, the parties must meet and confer in a good faith effort to resolve them. If that fails, any party may file a written motion in accordance with Rule 45.

Parties shall follow the requirements set forth in the Appendix regarding prepared written testimony and exhibits.

Schedule

The parties have agreed to the following schedule for this proceeding:

October 29, 2002	Edison's response to Stock's request for documents
October 29, 2002	Edison motion to dismiss filed and served, with copy to ALJ
November 19, 2002	Stock opposition to motion to dismiss filed and served, with copy to ALJ
January 7, 2003	Concurrent distribution of prepared testimony to all parties, with copy to ALJ
January 17, 2003 time to be announced	Evidentiary Hearing at Commission Courtroom, State Office Building, 320 West 4th Street, Los Angeles, California
To be set at close of EH	Concurrent briefs, if any; submission of case
Approx. April 10, 2003	Presiding Officer's decision filed within 60 days of submission
Approx. May 10, 2003	Presiding Officer's decision becomes effective 30 days after mailing (unless appeal filed per § 1701.2(a) and Rule 8.2)

This schedule is subject to adjustments if preparation and consideration of a Draft Decision on the Motion to Dismiss extend beyond the dates given here.

It is my goal to close this case within the 12-month timeframe for resolution of adjudicatory proceedings and this schedule meets that goal. At this

time, I foresee no extraordinary circumstances which would warrant an extension of the schedule.

Category of Proceeding and Need for Hearing

This ruling confirms this case as an adjudication scheduled for hearing, as preliminarily determined by the Commission.

Assignment of Presiding Officer

Administrative Law Judge Anne Simon will be the presiding officer.

Ex Parte Rules

Ex parte communications are prohibited in adjudicatory proceedings under § 1701.2(b) and Rule 7.

IT IS RULED that:

1. The scope of the proceeding is as set forth herein.
2. The schedule for this proceeding is set forth herein.
3. The presiding officer will be Administrative Law Judge Simon.
4. This ruling confirms that this proceeding is an adjudication scheduled for hearing.
5. Ex parte communications are prohibited under Pub. Util. Code § 1701.2(b) and Rule 7 of the Commission's Rules of Practice and Procedure.

Dated October 18, 2002, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

APPENDIX

Prepared Written Testimony and Exhibits

Service

All prepared written testimony should be served on all appearances and state service on the service list, as well as on the Assigned Commissioner's office and on the Assigned ALJ. Prepared written testimony should NOT be filed with the Commission's Docket Office.

Identification of Exhibits in the Hearing Room

Each party sponsoring an exhibit should, in the hearing room, provide **two copies to the ALJ and one to the court reporter**, and have at least five copies available for distribution to parties present in the hearing room. **The upper right hand corner of the exhibit cover sheet should be *blank* for the ALJ's exhibit stamp.** Thus, if parties "pre-mark" exhibits in any way, they should do so in the upper left hand corner of the cover sheet. Please note that this directive applies to cross-examination exhibits as well. If there is not sufficient room in the upper right hand corner for an exhibit stamp, please prepare a cover sheet for the cross-examination exhibit.

Cross-Examination With Exhibits

As a general rule, if a party intends to introduce an exhibit in the course of cross-examination, the party should provide a copy of the exhibit to the witness and the witness' counsel before the witness takes the stand on the day the exhibit is to be introduced. Generally, a party is not required to give the witness an advance copy of the document if it is to be used for purposes of impeachment or to obtain the witness' spontaneous reaction. An exception might exist if parties have otherwise agreed to prior disclosure, such as in the case of confidential documents.

Corrections to Exhibits

Generally, corrections to an exhibit should be made in advance and not orally from the witness stand. Corrections should be made in a timely manner by providing new exhibit pages on which corrections appear. The original text to be deleted should be lined out with the substitute or added text shown above or inserted. Each correction page should be marked with the word "revised" and the revision date.

Exhibit corrections will receive the same number as the original exhibit plus a letter to identify the correction. Corrections of exhibits with multiple sponsors will also be identified by chapter number. For example, Exhibit 5-3-B is the second correction made to Chapter 3 of Exhibit 5.

(END OF APPENDIX)

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner on all parties of record in this proceeding or their attorneys of record.

Dated October 18, 2002, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TTY# 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.